

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 1:12-CR-00435-1
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Brownsville, Texas
)	
TOMAS YARRINGTON RUVALCABA,)	Thursday, April 26, 2018
)	
<u>Defendant.</u>)	(1:34 p.m. to 1:42 p.m.)

ARRAIGNMENT AND DETENTION HEARING

BEFORE THE HONORABLE RONALD MORGAN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

See page 2

Interpreter:	Monica Licea-Castro
Clerk:	Bertha Vasquez
Court Recorder [ECRO]:	Balvina Campos
Deputy U.S. Marshal:	Bobby Lara
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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

APPEARANCES:

For Plaintiff:

JODY YOUNG, ESQ.
KAREN BETANCOURT, ESQ.
Assistant United States Attorney
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Brownsville, Texas 78520

For Defendant:

CARLOS N. MONARREZ, ESQ.
Valdez & Monarrez
914 E. Van Buren St.
Brownsville, Texas 78520

U.S. Probation:

Annette Escamilla

Brownsville, Texas; Thursday, April 26, 2018; 1:34 p.m.

(Interpreter Utilized for Translation)

(Call to Order)

THE COURT: Good afternoon. Please be seated.

Call B12-cr-531-S-1, *United States v. Tomas*

Yarrington Ruvalcaba.

MR. MONARREZ: Good afternoon, your Honor. Carlos Monarrez on behalf of Mr. Yarrington-Ruvalcaba.

MR. YOUNG: Jody Young and Karen Betancourt for the United States, your Honor. The United States is present and ready to proceed.

THE COURT: All right. Swear the Defendant, please.

(Defendant sworn)

THE COURT: For the record, sir, what's your full name.

THE DEFENDANT: Tomas Jesus Yarrington Ruvalcaba.

THE COURT: How old are you?

THE DEFENDANT: Sixty-one years old.

THE COURT: How far did you go in school?

THE DEFENDANT: Up to a master's in public administration.

THE COURT: Do you read and write Spanish?

THE DEFENDANT: Yes.

THE COURT: Do you understand what the Court interpreter is telling you through the headphones?

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** If at any time during these proceedings
3 you do not understand something the Court interpreter says or
4 if the headphones malfunction and you can't hear what she says,
5 I want you to raise your hand and indicate to me you did not
6 hear or did not understand so I can get it cleared up for you.

7 Do you understand that procedure, sir?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** Mr. Yarrington, have you ever been
10 committed to a mental institution or treated for a mental
11 illness of any sort?

12 **THE DEFENDANT:** No.

13 **THE COURT:** Are you under the influence of anything,
14 drugs, alcohol, or medication, that prevent you from thinking
15 clearly?

16 **THE DEFENDANT:** No.

17 **THE COURT:** Mr. Yarrington, you are appearing --
18 well, let me ask you this first. Have you seen or received a
19 copy of the Indictment, that is, the charges that have been
20 filed against you?

21 **THE DEFENDANT:** Yes, I did.

22 **THE COURT:** Now, you're appearing here with
23 Mr. Monarrez. Is he your lawyer?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** Have you had a chance to meet with

1 Mr. Monarrez and talk about the charges in your case?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** Do you understand those charges?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** Mr. Monarrez, do you find Mr. Yarrington
6 to be competent and able to assist in his own defense?

7 **MR. MONARREZ:** Yes, your Honor, as to both.

8 **THE COURT:** Mr. Yarrington, do you want me to read
9 the Indictment that's been --

10 **MR. MONARREZ:** Your Honor, with the Court's
11 permission, we'll waive the reading of the Indictment and enter
12 a plea of not guilty.

13 **THE COURT:** All right. Let me give you the dates
14 then for the future proceedings in your case, Mr. Yarrington.
15 Those dates are as follows:

16 Motions are due May the 9th, 2018.

17 Response to motions are due May the 23rd, 2018.

18 There is a motion hearing before Judge Torteya on May
19 the 31st, 2019 at 9:00 o'clock in the morning.

20 Docket call and final pretrial conference in your
21 case is scheduled for June the 7th, 2018 at 1:30 in the
22 afternoon.

23 Proposed voir dire questions and jury instructions
24 are due at final pretrial.

25 Jury selection in your case is scheduled for June the

1 8th, 2018 at 10:30 in the morning.

2 Mr. Young, an estimate for the length of trial?

3 **MR. YOUNG:** I would say two weeks at least,
4 your Honor. Between two and three.

5 **THE COURT:** You're overly optimistic.

6 **MR. YOUNG:** Right.

7 **THE COURT:** All right. Mr. Monarrez, what do you
8 think?

9 **MR. MONARREZ:** Your Honor, I think it's closer to
10 three.

11 **THE COURT:** I do too. I'm going to put down, I'm
12 going to put 20 days. That's 20 trial days.

13 Now let's turn to the question of detention.

14 First off, I understand there's been a motion that
15 was filed by you, Mr. Monarrez, seeking to delay the detention
16 hearing. Can you tell me what's going on there?

17 **MR. MONARREZ:** Yes, your Honor. As I stated in the
18 motion, there was conversations I have had with Mr. Yarrington,
19 my client. He did indicate to me several things regarding
20 questions as they relate to his presence in Italy as to the
21 assertion that he was a fugitive of the law. I wanted to
22 explore those particular questions -- or not questions, but
23 statements that he made to me, just to have an opportunity so I
24 could proffer to the Court that information after I've verified
25 it myself.

1 **THE COURT:** Mr. Young, what's the Government's
2 position?

3 **MR. YOUNG:** We're opposed to postponing your finding.
4 Nothing prevents him from filing or appealing when he has
5 information, but 3142 clearly states that a person has five
6 days, the Government has three days, and so we're looking at --
7 we'd like go forward.

8 **THE COURT:** And I'll be perfectly honest with you.
9 My understanding is, is that Mr. Yarrington was apprehended and
10 he was extradited and I believe that he was opposed to the
11 extradition. Moreover, there's a presumption in this case,
12 given the sentence and the nature of the offense. And at this
13 point I doubt there's anything that you would be able to
14 introduce at this point that would change the disposition.

15 Now, if something changes and you've got something to
16 submit, you can submit it. But at this point your request for
17 delay is denied and Mr. --

18 Now, let me ask you this. Have you received a copy
19 of the Pretrial Services Report?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** All right. And have you had a chance to
22 discuss the contents of the report with Mr. Yarrington?

23 **MR. MONARREZ:** Yes, your Honor, I have.

24 **THE COURT:** All right. Any objections to the
25 substance of the report?

1 **MR. MONARREZ:** Not to the substance, but to the
2 recommendation, your Honor.

3 **THE COURT:** All right. What's the argument?

4 **MR. MONARREZ:** Your Honor, I do believe one of the
5 issues here, I know that you were saying that there's certain
6 cases here that he's been charged with that are presumption
7 cases and which you don't believe that we're going to be able
8 to overcome those particular presumptions, but I don't believe
9 he presents a flight risk.

10 **THE COURT:** Yeah, I'm not certain it's necessarily
11 the presumption that's the problem. I think that
12 Mr. Yarrington has demonstrated in his flight to start with
13 that he's a flight risk.

14 **MR. MONARREZ:** That's what I wanted to address to the
15 Court, was in my continuance --

16 **THE COURT:** And like I say, if you come across --

17 **MR. MONARREZ:** Yes.

18 **THE COURT:** -- something else that changes that,
19 please submit it and the Court's not opposed to reconsidering
20 this disposition. Of if you're so inclined, you can always
21 take it up with the District Judge.

22 **MR. MONARREZ:** Yes, your Honor.

23 **THE COURT:** But at this point anything else you wish
24 to offer?

25 **MR. MONARREZ:** Not at the moment, your Honor.

1 **THE COURT:** All right. Mr. Young, what's the
2 Government's position?

3 **MR. YOUNG:** We would ask for detention. We would
4 concur with the Pretrial Services Report. The nature of the
5 offense obviously does kick in a rebuttal of presumption.
6 There is an issue of fugitive status for several years. He
7 does have ties to a foreign country. I would say at least
8 Italy. He has relatives in Mexico. He has no current status
9 in the United States. There is a detainer on him. And for all
10 those reasons, as well as there's an unverified employment
11 history, at least the last several years, as well as unverified
12 resources, it all adds up to I think that obviously detention
13 would apply.

14 **THE COURT:** All right. At this point,
15 Mr. Yarrington, I'm going to find there are no conditions or
16 combination of conditions that would assure your presence at
17 all future proceedings or safeguard the community and you're
18 ordered held without bond.

19 Now, before we remand you back to the custody of the
20 Marshals, reading this report and reading the assets that are
21 set forth in the report, when I asked you the other day under
22 oath if you were able to hire a lawyer, that is, whether you
23 could afford to pay a lawyer, at that time you told me you were
24 not, for which reason Mr. Monarrez was appointed to represent
25 you. I'm going to tell you again you're still under oath and

1 if that situation changes in any way you are to hire a lawyer
2 and you are then to work out with Mr. Monarrez whatever costs
3 have been incurred between the time that Mr. Monarrez was
4 appointed and you retained new counsel.

5 Do you understand that?

6 **THE DEFENDANT:** I do understand.

7 **THE COURT:** All right, then you're remanded to the
8 custody of the Marshals pending further proceedings. Thank you
9 very much.

10 **MR. MONARREZ:** If I may be excused, your Honor?

11 **THE COURT:** Yes, sir.

12 **MR. YOUNG:** And, your Honor, may Ms. Betancourt and
13 myself?

14 **THE COURT:** You may as well.

15 **MR. YOUNG:** Thank you, your Honor.

16 **THE COURT:** Mr. Young, let me just ask, did the folks
17 from Uzbekistan walk out the door and go I hope the rest of the
18 Judges aren't like him?

19 **(Laughter)**

20 **MR. YOUNG:** They loved it. Thank you again,
21 your Honor. Thank you for your time.

22 **THE COURT:** Okay. All right. Thank you very much.

23 **(This proceeding was adjourned at 1:42 p.m.)**

24

25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in black ink, appearing to read "Toni Hudson", is written above a horizontal line.

Signed

December 14, 2019

Dated

TONI HUDSON, TRANSCRIBER